

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
UNITED STATES OF AMERICA,

-against-

ISMAEL RODRIGUEZ,

Defendant.
----- x

ORDER

LEWIS A. KAPLAN, *District Judge.*

Before the Court is defendant's *pro se* motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2).¹

On November 1, 2022, this Court sentenced defendant principally to a term of imprisonment of 60 months. On January 9, 2024, defendant moved for a reduction of sentence. On January 30, 2024, the Probation Office completed a Supplemental Presentence Report. The government filed its opposition on February 7, 2024.²

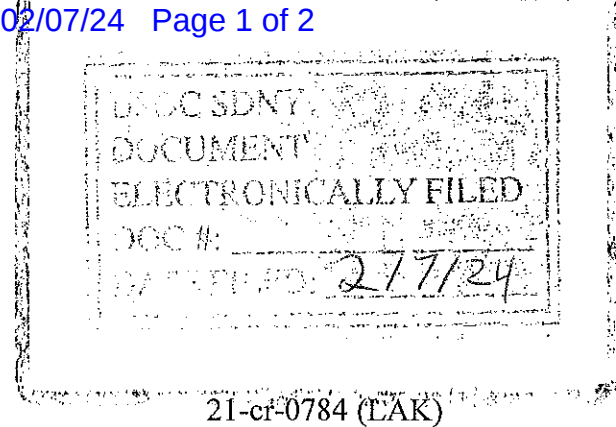
Defendant contends that he is eligible for a sentence reduction under Amendment 821 to the Sentencing Guidelines. Specifically, he seeks a two-level offense level decrease pursuant to Section 4C1.1. Section 4C1.1 provides for a two-level downward adjustment in offense level for certain offenders with zero criminal history points. According to the Supplemental Presentence

¹

Dkt 24.

²

Defendant claims in his motion that “the Government joins in requesting issuance of this order.” Dkt 24 at 2. The government responds that this statement is inaccurate and that the government opposes defendant’s motion. Dkt 26 at 1.



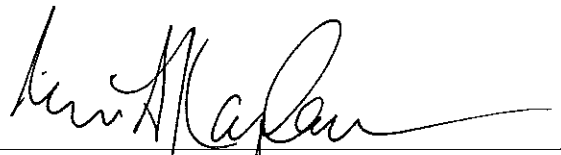
Report, defendant is eligible for the so-called zero-point offender recalculation of his offense level. Accordingly, defendant's original offense level of 29 would now be 27 and his corresponding Guidelines range would be reduced from 87 to 108 months to 70 to 87 months.

The Supplemental Presentence Report and government agree that defendant is ineligible for a sentence reduction under Amendment 821. Under the Guidelines, "the court shall not reduce the defendant's term of imprisonment under 18 U.S.C. § 3582(c)(2) . . . to a term that is less than the minimum of the amended guideline range." U.S.S.G. § 1B1.10(b)(2)(A). In this case, defendant's original sentence of 60 months is less than the bottom of the amended Guidelines range. Defendant is thus ineligible for a sentence reduction.

Defendant's motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) is denied.

SO ORDERED.

Dated: February 7, 2024



Lewis A. Kaplan
United States District Judge